

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

CARLOS WILLIAMS,

Plaintiff,

Case No. 06-11312

v.

District Judge Paul D. Borman  
Magistrate Judge R. Steven Whalen

DEBORAH RIES, et al.,

Defendants.

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**ORDER DENYING MOTION FOR APPOINTMENT OF COUNSEL**

Plaintiff, a *pro se* prison inmate in this civil rights action brought under 42 U.S.C. §1983, has filed a motion for appointment of counsel [Docket #16].

Unlike criminal cases, there is no constitutional or statutory right to the appointment of counsel in civil cases. Rather, the Court requests members of the bar to assist in appropriate cases. In *Lavado v. Keohane*, 992 F.2d 601, 605-606 (6<sup>th</sup> Cir. 1993), the Sixth Circuit noted that “[a]ppointment of counsel in a civil case is not a constitutional right. It is a privilege that is justified only by exceptional circumstances.” (Internal quotations and citations omitted). It is the practice of this Court to defer any attempt to obtain counsel for *pro se* civil rights Plaintiffs until after motions to dismiss or motions for summary judgment have been denied.

On February 27, 2007, the undersigned issued a Report and Recommendation (R&R)

that Plaintiff's motion for summary judgment be denied. The District Court has not yet issued a final order accepting or denying the R&R. On February 23, 2007, the undersigned issued an R&R denying, without prejudice, the Defendants' motion to dismiss. That motion was premised on Plaintiff's alleged failure to exhaust administrative remedies under the Prison Litigation Reform Act (PLRA), not on the substantive merits of the complaint. The February 23<sup>rd</sup> R&R is likewise pending before the District Judge.

Because these dispositive motions are still pending, and because the Defendants still have the option of filing dispositive motions—including substantive motions under Fed.R.Civ.P. 12(b) and 56(c) as well as procedural motions raising exhaustion, in conformity with *Jones v. Bock*, 549 U.S. \_\_\_, 127 S.Ct. 910 (2007)—the present motion for appointment of counsel is premature.

Accordingly, the motion for appointment of counsel [Docket #16] is DENIED WITHOUT PREJUDICE.

SO ORDERED.

S/R. Steven Whalen  
R. STEVEN WHALEN  
UNITED STATES MAGISTRATE JUDGE

Dated: February 28, 2007

#### CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing order was served on the attorneys and/or parties of record by electronic means or U.S. Mail on February 28, 2007.

S/G. Wilson

Judicial Assistant